

ESTTA Tracking number: **ESTTA588211**

Filing date: **02/19/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company
Granted to Date of previous extension	02/19/2014
Address	7000 Coliseum WaySecond Floor Oakland, CA 94621 UNITED STATES

Attorney information	Don M. Obert Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES mlk@cll.com, dmo@cll.com, lmr@cll.com, trademark@cll.com, jmn@cll.com, nmp@cll.com, njh@cll.com Phone:212 790 9200
----------------------	---

### Applicant Information

Application No	85937966	Publication date	10/22/2013
Opposition Filing Date	02/19/2014	Opposition Period Ends	02/19/2014
Applicant	Wadhwani, Chandru 12621 Western Ave. Garden Grove, CA 92841 USX		

### Goods/Services Affected by Opposition

Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Plush toys
---

### Grounds for Opposition

Other	Please see attached pleading.
-------	-------------------------------

Attachments	Ltr to Comm PRO ATHLETIX.pdf(157092 bytes ) NOO PRO ATHLETIX.pdf(64158 bytes )
-------------	---

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lindsay Rodman/
Name	Lindsay M. Rodman
Date	02/19/2014



Cowan, Liebowitz & Latman, P.C.  
1133 Avenue of the Americas  
New York, NY 10036

(212) 790-9200 Tel  
(212) 575-0671 Fax  
[www.cl.com](http://www.cl.com)

**Lindsay M. Rodman**  
Direct: (212) 790-9263  
lmr@cl.com

February 19, 2014

**By Electronic Filing**

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Athletics Investment Group LLC  
d/b/a The Oakland Athletics Baseball Company  
Notice of Opposition Against  
Chandru Wadhwani  
Application to register PRO ATHLETIX  
Ref. No. 21307.034

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/937,966 published in the Official Gazette on October 22, 2013. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Lindsay M. Rodman/  
Lindsay M. Rodman

Enclosures

cc: Ms. Diane Kovach (w/encs.)  
Mary L. Kevlin, Esq. (w/encs.)  
Don M. Obert, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/937,966  
Filed: May 21, 2013  
For Mark: PRO ATHLETIX  
Published in the Official Gazette: October 22, 2013

-----X	
ATHLETICS INVESTMENT GROUP LLC D/B/A	:
THE OAKLAND ATHLETICS BASEBALL	:
COMPANY,	:
	:
Opposer,	:
	:
v.	:
	:
CHANDRU WADHWANI,	:
	:
Applicant.	:
-----X	

Opposition No.

**NOTICE OF OPPOSITION**

Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer, Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company (“Opposer”), a California limited liability company, with offices at 7000 Coliseum Way, Second Floor, Oakland, CA 94621, believes that it will be damaged by registration of the standard character word mark PRO ATHLETIX (“Applicant’s PRO ATHLETIX Mark”) for “Plush toys” in International Class 28, as shown in Application Serial No. 85/937,966 (the “Application”), and having been granted an extension of time to oppose up to and including February 19, 2014, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned OAKLAND ATHLETICS MAJOR LEAGUE BASEBALL club (the “Club”).

2. Since long prior to May 21, 2013, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the name or mark ATHLETICS, ATHLETIC and/or ATLETICOS (the foreign equivalent of ATHLETIC), alone or with other word, letter and/or design elements ("Opposer's ATHLETICS Marks"), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, toys, including, without limitation, plush toys and stuffed toys, and sporting goods; apparel; paper goods and printed matter; and novelty items.

3. Opposer owns U.S. federal registrations for Opposer's ATHLETICS Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 28 and 41; namely, Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 2,573,396; 2,630,348; 2,759,932; 3,349,789; 3,538,727; 3,633,242 and 3,633,243. Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 2,573,396; 2,630,348 and 2,759,932 are incontestable.

4. Since long prior to May 21, 2013, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, toys, including, without limitation, plush toys and stuffed toys, and sporting goods; apparel; paper goods and printed matter; and novelty items, and have offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, Opposer has built up highly valuable

goodwill in Opposer's ATHLETICS Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On May 21, 2013, Applicant filed the Application for Applicant's PRO ATHLETIX Mark for "Plush toys" in International Class 28, based upon an intent to use.

7. Upon information and belief, Applicant did not use Applicant's PRO ATHLETIX Mark for the goods covered by the Application in United States commerce prior to Applicant's constructive use date of May 21, 2013.

8. The goods covered by the Application are identical and/or closely related to the goods offered in connection with Opposer's ATHLETICS Marks.

9. The word ATHLETIX in Applicant's PRO ATHLETIX Mark is phonetically identical to certain of Opposer's ATHLETICS Marks.

10. Upon information and belief, the word "PRO" in Applicant's PRO ATHLETIX Mark could be understood to either be a shortened form of the word "professional" or being in favor of something.

11. Either of the foregoing meanings of the word "PRO" could suggest a connection to indicate Opposer and its goods and services because Opposer is a "professional" baseball team and because Opposer's team has a large fan base that could be described as being as "PRO" ATHLETICS.

12. Applicant's PRO ATHLETIX Mark so resembles Opposer's ATHLETICS Marks as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by

Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's PRO ATHLETIX Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's PRO ATHLETIX Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel, Don M. Obert, and Lindsay M. Rodman (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
February 19, 2014

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.  
Attorneys for Opposer

By: /Lindsay M. Rodman/

Mary L. Kevlin  
Richard S. Mandel  
Don M. Obert  
Lindsay M. Rodman  
1133 Avenue of the Americas  
New York, New York 10036  
(212) 790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on February 19, 2014, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant and Correspondent of Record, Chandru Wadhwani, 12621 Western Avenue, Garden Grove, California 92841-4014.

\_\_\_\_\_  
/Lindsay M. Rodman/  
Lindsay M. Rodman